



NOTES

CANADA-WIDE ACCORD ON ENVIRONMENTAL HARMONIZATION

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INTRODUCTION

On November 20, 1996, the Canadian Council of Ministers of the Environment (CCME) gave approval in principal to the Canada-Wide Accord on Environmental Harmonization. Although this Accord comprises a framework, the sub-agreements on specific issues which are needed to implement it are still being finalized.¹

BACKGROUND

Under the Canadian constitution, jurisdiction for environmental management is shared between the federal and provincial governments, implicitly rather than explicitly since the word "environment" is not used.

The dividing lines between their respective responsibilities are far from distinct. Although the constitution appears to set out some clear environmental areas of responsibility, such as provincial control over forestry and federal control over fisheries, the interrelationships among the various heads of power related to the environment have always left considerable scope for involvement by both levels of government. Complicating this situation further is the complex

nature of ecosystems and environmental issues, which do not respect jurisdictional boundaries.²

Despite numerous examples of successful co-operation on environmental matters over the years, federal and provincial ministers felt they were treating the symptoms of the problem, rather than its causes.

Co-operative mechanisms were being developed without any guiding framework, often in response to events rather than in anticipation of them. Questions were raised as to whether the right issues were being addressed and if they were being dealt with consistently across the country. Ministers perceived significant areas of overlap and duplication, such as management of toxic chemicals and environmental impact assessment. Finally, reduced budgets and resources at both levels of government required environment departments to become more efficient and effective to maintain the existing level of protection across Canada and improve it where needed.

FIRST STEPS

In November 1993, environment ministers agreed that harmonization of environmental management

¹ Detailed information about the Accord and its sub-agreements, along with an opportunity to comment on many aspects of the ongoing process are provided at the CCME's Internet site: http://www.mbnet.mb.ca/ccme/hi_now.html

² A full discussion of these issues is provided in a report titled *Background on the Harmonization Initiative*, at the CCME's Internet address: <http://www.mbnet.mb.ca/ccme/background.html>

would become their first priority, and in May 1994, they adopted a series of objectives that would govern upcoming discussions. A draft framework agreement and ten draft schedules (excluding environmental impact assessment) were made public for discussion in October 1995. During a three-month discussion period and two multi-stakeholder meetings, comments were obtained from business and industry, environmental interest groups, aboriginal people, academics, experts and others. Major issues raised included:

- **Accountability** - the need for clear and effective mechanisms, and the concern that the draft agreement would create a "third level of government" that would erode public access to the legislative and regulatory process;
- **Transparency** - the need to provide for public involvement in the negotiations and implementation;
- **Parties to the Agreement** - concern that Quebec was not at the table, and the need to define an appropriate role for aboriginal people;
- **Federal role** - the need to provide for appropriate leadership and co-ordination;
- **Decision-making** - the need to define decision-making and dispute resolution mechanisms to avoid gridlock and lowest common denominator solutions; and
- **Capacity and resources** - concern that some provinces may not have the capacity to fulfill their commitments; and the need to ensure that any necessary resource transfers occur before management changes are implemented.³

THE ACCORD

At their November 20, 1996 meeting, the CCME gave approval in principle to the Canada-Wide Accord on Environmental Harmonization. As the umbrella agreement, it is intended to be a comprehensive, multilateral agreement that sets the direction for the harmonization initiative by laying out a vision, objectives and principles. As well, it will provide guidance for sub-agreements,

whether multilateral, regional or bilateral. Key elements include:

- A **vision statement**;
- A **purpose statement**;
- A list of **objectives of harmonization**, including the enhancement of environmental protection, promotion of sustainable development and achievement of greater efficiency, effectiveness, accountability, predictability and clarity in environmental management in Canada;
- **Principles**, including polluter pays, pollution prevention, precautionary approach, performance-based environmental measures, respect for legislative authorities of the federal parliament and provincial and territorial legislatures, openness and transparency in environmental decision-making, flexibility as required to reflect specific circumstances within a jurisdiction, and co-operation with aboriginal people and their structures of governance;
- A section on **sub-agreements** which proposes guidance for determining roles and responsibilities of jurisdictions;
- Some general **administration** provisions; and
- A **work plan** which proposes priority areas for sub-agreements in the future.

The CCME, in consultation with the public, will review the Accord in five years to evaluate its effectiveness and determine its future.

The two sub-agreements on Standards and Inspections are substantially complete. However, the CCME has released a discussion paper on a new approach to conducting environmental assessments which provides for a single assessment and review process which may involve more than one jurisdiction. Public comment is being invited on the discussion paper, with a draft sub-agreement on environmental assessment expected to be ratified by the environment ministers in the spring of 1997.

³ *Ibid.*

